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COMMUNICATIONS SECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of) MM Docket No. 93-106
)
Amendment of Part 74 of the)
Commission's Rules Governing)
Use of the Frequencies)
in the Instructional)
Television Fixed Service)

TO: The Commission

REPLY COMMENTS

Besozzi, Gavin & Craven ("BG&C"), pursuant to Section 1.415
of the Commission's Rules, hereby submits its Reply Comments
relative to the filings made in response to the Commission's Notice

unintended consequence of stifling the development and maximum potential of the Instructional Television Fixed Service ("ITFS"). Allowing the use of "Channel Mapping" has improved matters but still entails considerable costs on a per subscriber basis for wireless operators. Channel loading is the correct measure to foster development of both ITFS and wireless cable.

2. The impending development of cost-efficient digital compression technologies appear to make a 5-year "sunset" provision on channel loading a feasible proposal. Various parties have favorably commented on the idea of a "sunset" provision.^{3/} However, if for some reason those technologies do not become readily available by a date that is one year before the "sunset" date, the Commission should be willing to extend the "sunset" date by at least an additional year, in order to protect both wireless operators and ITFS licensees that employ channel loading. In this respect, the Commission would be greatly aided by WCA's undertaking to "submit ... periodic reports to the Commission on the status of digital compression from time to time" to determine when such technologies have become both technologically and economically viable. (WCA Comments, pp. 9-10).

3. BG&C is concerned by the degree of access sought by the National ITFS Association ("NIA"), for which NIA suggests a "set of standard clauses" to be developed by the Commission "governing minimum program schedules, recapture provisions and access to

^{3/} BG&C opposes the two-year period proposed by NIA. (NIA Comments, p. 5).

channels, and additional matters that it believes to be non-negotiable, which must be included in each and every excess capacity lease." (NIA Comments, p. 4) (emphasis supplied). BG&C supports WCA's argument that "the cost-savings inherent in channel loading would be severely diminished if the Commission were to mandate that each ITFS license maintain recapture rights to all of its channels during the interim period until digital compression becomes available." (WCA Comments, p. 11).

4. In further response to NIA's proposal for standard clauses, it should be noted that no ITFS operator is compelled to enter an arrangement with a wireless cable operator. NIA's proposal is an unwarranted intrusion into the marketplace. NIA has provided no evidence that ITFS operators have been denied their right to access guaranteed by the Commission's Rules. The fact is that it is often the financial support provided by wireless cable lease arrangements that has allowed ITFS operators to develop the educational and instructional programming resources and opportunities since the loosening of the Commission's rules.

5. Channel loading is an appropriate way to balance the competing interests of the ITFS licensees and wireless cable operators.

WHEREFORE, in light of the foregoing, as well as its initial "Comments," BG&C respectfully request that the Commission adopt its proposed rules to permit "channel loading" of ITFS programming.

Respectfully submitted,

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